

103D CONGRESS
1ST SESSION

S. 493

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1993

Mr. COHEN (for himself, Mr. BOND, Mr. CHAFEE, Mr. SIMPSON, Mr. COCHRAN, Mr. BINGAMAN, Mr. CRAIG, Mr. MACK, Mr. MCCAIN, Mr. GORTON, Mr. KEMPTHORNE, Mr. BURNS, Mr. DOMENICI, Mr. WARNER, Mr. STEVENS, Mr. BROWN, Mr. GREGG, and Mr. COATS) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Hospital Cooperative
5 Agreement Act".

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to encourage cooperation
3 between hospitals in order to contain costs and achieve
4 a more efficient health care delivery system through the
5 elimination of unnecessary duplication and proliferation of
6 expensive medical or high technology services or equip-
7 ment.

8 **SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING**
9 **DEMONSTRATION PROGRAM.**

10 Part D of title VI of the Public Health Service Act
11 (42 U.S.C. 291k et seq.) is amended by adding at the end
12 thereof the following new section:

13 **"SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHAR-**
14 **ING DEMONSTRATION PROGRAM.**

15 "(a) ESTABLISHMENT.—The Secretary shall estab-
16 lish a demonstration program under which the Secretary
17 shall award not to exceed 10 grants to eligible applicants
18 to facilitate collaboration among two or more hospitals
19 with respect to the provision of expensive, capital-em-
20 bodied medical technology or other highly resource-inten-
21 sive services. Such program shall be designed to dem-
22 onstrate the extent to which such agreements result in a
23 reduction in costs, an increase in access to care, and im-
24 provements in the quality of care with respect to the
25 hospitals involved.

26 "(b) ELIGIBLE APPLICANTS.—

1 “(1) IN GENERAL.—To be eligible to receive a
2 grant under subsection (a), an entity shall be a hos-
3 pital and shall prepare and submit to the Secretary
4 an application at such time, in such manner, and
5 containing such information as the Secretary may
6 require, including—

7 “(A) a statement that such hospital desires
8 to negotiate and enter into a voluntary coopera-
9 tive agreement with at least one other hospital
10 operating in the State or region of the applicant
11 hospital for the sharing of medical technology
12 or services;

13 “(B) a description of the nature and scope
14 of the activities contemplated under the coopera-
15 tive agreement and any consideration that may
16 pass under such agreement to any other hos-
17 pital that may elect to become a party to the
18 agreement; and

19 “(C) any other information determined ap-
20 propriate by the Secretary.

21 “(2) DEVELOPMENT OF EVALUATION GUIDE-
22 LINES.—The Administrator of the Agency for
23 Health Care Policy and Research shall develop eval-
24 uation guidelines with respect to applications sub-
25 mitted under paragraph (1).

1 “(3) EVALUATIONS OF APPLICATIONS.—The
2 Secretary, in consultation with the Administrator of
3 the Agency for Health Care Policy and Research,
4 shall evaluate applications submitted under para-
5 graph (1). In determining which applications to ap-
6 prove for purposes of awarding grants under sub-
7 section (a), the Secretary shall consider whether the
8 cooperative agreement described in each such appli-
9 cation meets guidelines developed under paragraph
10 (2) and is likely to result in—

11 “(A) the enhancement of the quality of
12 hospital or hospital-related care;

13 “(B) the preservation of hospital facilities
14 in geographical proximity to the communities
15 traditionally served by such facilities;

16 “(C) improvements in the cost-effectiveness
17 of high-technology services by the hospitals
18 involved;

19 “(D) improvements in the efficient utiliza-
20 tion of hospital resources and capital equip-
21 ment; or

22 “(E) the avoidance of duplication of hos-
23 pital resources.

24 “(c) USE OF AMOUNTS.—

1 “(1) IN GENERAL.—Amounts provided under a
2 grant awarded under this section shall be used only
3 to facilitate collaboration among hospitals and may
4 not be used to purchase facilities or capital equip-
5 ment. Such permissible uses may include reimburse-
6 ments for the expenses associated with specialized
7 personnel, administrative services, support services,
8 and instructional programs.

9 “(2) CARE IN RURAL AREAS.—

10 “(A) IN GENERAL.—Not less than three of
11 the grants awarded under subsection (a), shall
12 be used to demonstrate the manner in which co-
13 operative agreements of the type described in
14 such subsection may be used to increase access
15 to or quality of care in rural areas.

16 “(B) DEFINITION.—As used in subpara-
17 graph (A), the term ‘rural areas’ means those
18 areas located outside of metropolitan statistical
19 areas.

20 “(d) MEDICAL TECHNOLOGY AND SERVICES.—

21 “(1) IN GENERAL.—Cooperative agreements fa-
22 cilitated under this section shall provide for the
23 sharing of medical or high technology equipment or
24 services among the hospitals which are parties to
25 such agreements.

1 “(2) MEDICAL TECHNOLOGY.—For purposes of
2 this section, the term ‘medical technology’ shall in-
3 clude the drugs, devices, and medical and surgical
4 procedures utilized in medical care, and the organi-
5 zational and support systems within which such care
6 is provided.

7 “(3) ELIGIBLE SERVICES.—With respect to
8 services that may be shared under an agreement en-
9 tered into under this section, such services shall—

10 “(A) either have high capital costs or ex-
11 tremely high annual operating costs; and

12 “(B) be services with respect to which
13 there is a reasonable expectation that shared
14 ownership will avoid a significant degree of the
15 potential excess capacity of such services in the
16 community or region to be served under such
17 agreement.

18 Such services may include mobile clinic services.

19 “(e) TERM.—The demonstration program established
20 under this section shall continue for a term of 5 years.

21 “(f) REPORT.—On the date that occurs 5 years after
22 the establishment of the demonstration program under
23 this section, the Secretary shall prepare and submit to the
24 appropriate committees of Congress, a report concerning

1 the potential for cooperative agreements of the type
2 entered into under this section to—

3 “(1) contain health care costs;

4 “(2) increase the access of individuals to medi-
5 cal services; and

6 “(3) improve the quality of health care.

7 Such report shall also contain the recommendations of the
8 Secretary with respect to future programs to facilitate co-
9 operative agreements.

10 “(g) RELATION TO OTHER LAWS.—

11 “(1) IN GENERAL.—Notwithstanding any provi-
12 sion of the antitrust laws, it shall not be considered
13 a violation of the antitrust laws for a hospital to
14 enter into, and carry out activities under, a coopera-
15 tive agreement in accordance with this section.

16 “(2) DEFINITION.—For purposes of this sub-
17 section, the term ‘antitrust laws’ means—

18 “(A) the Act entitled “An Act to protect
19 trade and commerce against unlawful restraints
20 and monopolies”, approved July 2, 1890, com-
21 monly known as the “Sherman Act” (26 Stat.
22 209; chapter 647; 15 U.S.C. 1 et seq.);

23 “(B) the Federal Trade Commission Act,
24 approved September 26, 1914 (38 Stat. 717;
25 chapter 311; 15 U.S.C. 41 et seq.);



1 “(C) the Act entitled “An Act to supple-
2 ment existing laws against unlawful restraints
3 and monopolies, and for other purposes”, ap-
4 proved October 15, 1914, commonly known as
5 the “Clayton Act” (38 Stat. 730; chapter 323;
6 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660,
7 3285, 3691; 29 U.S.C. 52, 53); and

8 “(D) any State antitrust laws that would
9 prohibit the activities described in paragraph
10 (1).

11 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section,
13 such sums as may be necessary for each of the fiscal years
14 1994 through 1998.”.

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